

PTO/SB/26 (09-04)
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**TERMINAL DISCLAIMER TO OBIVATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)
10317/002004

In re Application of: Simmonds et al.

Application No.: 10/025,720

Filed: July 22, 2003

For: Method and Apparatus for Making Measurements of Accumulations of Magnetically Susceptible Particles Combined with Analytes

The owner, Quantum Design, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 5,437,553, as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

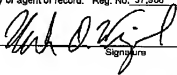
- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 37,866



Signature

February 24, 2005

Date

Mark D. Wiczorek

Typed or printed name

562-244-5671

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/06 may be used for making this certification. See MPEP § 324.

02/25/2005 KJONES3 00000001 501167

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND PAPER OR COMPLETION CHARGES TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/07 (06-09)
Approved for use through 07/31/2006. OMB 0951-0031
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PTO CENTRAL FAX NUMBER
(703) 872-9306

3 PAGES
S/N 10/625,720

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on 2/24/05
Date



MARK D. WIECZOREK
REG. NO. 37,966

Typed or printed name of person signing Certificate

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Terminal Disclaimer (1 page)
Fee transmittal (1 page)

cc: Examiner Patidar 571-273-2265

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (12-04v2)

Approved for use through 07/31/2005. OMB 0651-0032
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Effective on 12/09/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818):

FEE TRANSMITTAL
For FY 2005☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 65

Complete If Known

Application Number	10/625,720
Filing Date	July 22, 2003
First Named Inventor	Simmonds
Examiner Name	Petidar
Art Unit	2682
Attorney Docket No.	10317/002004

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):☒ Deposit Account Deposit Account Number 50-1187 Deposit Account Name Mark D. Wisczarek

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s)
under 37 CFR 1.16 and 1.17☐ Credit any overpayments

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fees Description**

Each claim over 20 (including Reissues)
Each independent claim over 3 (including Reissues)
Multiple dependent claims

Total Claims	Extra Claims	Fee (\$)	Fees Paid (\$)	Small Entity	Fee (\$)
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- 20 or HP = $\frac{\text{Total Claims} - 20}{\text{HP}} \times \text{Fee ($)}$

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims $\frac{\text{Total Claims} - 3}{\text{Indep. Claims}} \times \text{Fee ($)}$

- 3 or HP = $\frac{\text{Total Claims} - 3}{\text{HP}} \times \text{Fee ($)}$

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(c)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fees Paid (\$)
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- 100 = $\frac{\text{Total Sheets} - 100}{50} \times \text{Fee ($)}$ (round up to a whole number) x =

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Terminal Disclaimer Fee

Fees Paid (\$)

86

SUBMITTED BY

Signature

Registration No.

37,968

Telephone 562-244-5671

Name (Print/Type)

Mark D. Wisczarek

Date 2/24/05

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to be paid by the USPTO to process an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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